

05 MAY 2005



UNITED STATES PATENT AND TRADEMARK OFFICE

Commissioner for Patents
United States Patent and Trademark Office
P.O. Box 1450
Alexandria, VA 22313-1450
www.uspto.gov

Deborah G. VandenHoff
Van Tassell & Associates
P.O. Box 2928
Bellaire, TX 77402-2928

In re Application of
MONNIER
Serial No.: 10/528,995
PCT No.: PCT/CH02/00151
Int. Filing Date: 13 March 2002
Priority Date: 20 March 2001
Atty Docket No.: GLN-031US
For: WATCH MOVEMENT

DECISION ON PETITION

UNDER 37 CFR 1.10(e)

This decision is in response to applicant's correspondence filed 14 March 2005 in the United States Patent and Trademark Office (USPTO). The correspondence is being treated as a petition under 37 CFR 1.10(e). No petition fee is required.

BACKGROUND

On 13 March 2002, applicant filed international application PCT/CH02/00151 which claimed priority to an earlier application filed 20 March 2001. A copy of the international application was communicated to the United States Patent and Trademark Office from the International Bureau on 26 September 2002. The thirty-month period for paying the basic national fee in the United States expired at midnight on 20 September 2003.

On 14 March 2005, applicant filed papers purporting to be a 19 September 2003 United States National stage filing for the above-identified international application. The papers are being treated as a petition under 37 CFR 1.10(e).

DISCUSSION

37 CFR 1.10(e) states:

Any person mailing correspondence addressed as set out in § 1.1(a) to the Office with sufficient postage utilizing the "Express Mail Post Office to Addressee" service of the USPS but not received by the Office, may petition the Director to consider such correspondence filed in the Office on the USPS deposit date, provided that:

- (1) The petition is filed promptly after the person becomes aware that the Office has no evidence of receipt of the correspondence;
- (2) The number of the "Express Mail" mailing label was placed on the paper(s) or fee(s) that

constitute the correspondence prior to the original mailing by "Express Mail";

(3) The petition includes a copy of the originally deposited paper(s) or fee(s) that constitute the correspondence showing the number of the "Express Mail" mailing label thereon, a copy of any returned postcard receipt, a copy of the "Express Mail" mailing label showing the "date-in," a copy of any other official notation by the USPS relied upon to show the date of deposit, and, if the requested filing date is a date other than the "date-in" on the "Express Mail" mailing label or other official notation entered by the USPS, a showing pursuant to paragraph (d)(3) of this section that the requested filing date was the date the correspondence was deposited in the "Express Mail Post Office to Addressee" service prior to the last scheduled pickup for that day; and

(4) The petition includes a statement which establishes, to the satisfaction of the Director, the original deposit of the correspondence and that the copies of the correspondence, the copy of the "Express Mail" mailing label, the copy of any returned postcard receipt, and any official notation entered by the USPS are true copies of the originally mailed correspondence, original "Express Mail" mailing label, returned postcard receipt, and official notation entered by the USPS.

Applicant has satisfied items 1 and 2 above.

As to item (3), applicant has not provided a copy of the "Express Mail" mailing label for the papers purported to have been filed on 19 September 2003. This is especially important in the present case as the USPS track and confirm database does not show any information for U.S. Express Mail number "ER275611307US"; the Express Mail number which appears on the transmittal letter. As such, there is presently no evidence that the original papers were in fact deposited for mailing on 19 September 2003.

Regarding item (4), applicant states that "enclosed is a copy of the submission originally filed in the U.S. Patent Office under 35 U.S.C. § 371 on September 19, 2003." However, applicant has not attested that the copies filed on 14 March 2005 are a true and complete copy of the original papers filed. In addition, applicant has not provided a statement from an individual with firsthand knowledge of the preparation and depositing of the Express Mail package.

In light of the above, it is not possible to grant applicant's petition under 37 CFR 1.10(e) at this time.

CONCLUSION

For the reasons stated above, applicant's petition under 37 CFR 1.10(e) is **DISMISSED**.

Any reconsideration on the merits of this petition must be filed within **TWO (2) MONTHS** from the mail date of this decision. Any reconsideration request should include a cover letter entitled "Renewed Petition Under 37 CFR 1.10(e)." No additional petition fee is required. Extensions of time may be obtained under 37 CFR 1.136(a).

Any further correspondence with respect to this matter should be directed to Mail Stop PCT, Commissioner for Patents, Office of PCT Legal Administration, P.O. Box 1450, Alexandria, Virginia 22313-1450, with the contents of the letter marked to the attention of the Office of PCT Legal Administration



Derek A. Putonen
Attorney Advisor
Office of PCT Legal Administration
Tel: 571-272-3294
Fax: 571-273-0459